Cr.MP(M) No. 529 of 2007.

03.9.2007 Present: Mr. Vikram Thakur, Advocate, for the applicant.

Mr. P.M. Negi, Deputy Advocate General, for respondent-State.

The primary ground on which the application of the petitioner was rejected by the learned Sessions Judge, Kangra at Dharamshala was linked with and based upon the statement of the victim made after she allegedly regained consciousness on 19th February, 2007.

On 27th July, 2007, this Court had ordered the respondent to produce the record of the case in the Court. Mr. Negi has produced the record today before me which I have perused. He could refer to and rely upon only three documents. One was an application dated 18th November, 2006 which bore two endorsements dated 18/19th November, 2006 and 21st November, 2006. These two endorsements indicated that the victim was un-conscious and un-fit to make statements on the aforesaid two sets of dates. That was, however, within five days of the date of occurrence. The other document shown is dated 19th February, 2007, endorsement whereupon suggests that the victim was physically and mentally fit to give her statement. That was on 19th February, 2007. The third document is the statement made by the victim herself.

Between 21st November, 2006 and 19th February, 2007, whether the victim was un-conscious or not or whether she was in a fit state, physically and mentally or not to make the statement has not at all been established with reference to any record, much less any medical evidence. The only inference, therefore, which can be drawn

at this stage is that the story put forth by the prosecution or the victim about her remaining un-conscious for all the aforesaid three months, without any interruption perhaps at this stage, does require to be taken with a pinch of salt.

On a totality of circumstances, I feel that a good case is made out for enlarging the petitioner on bail.

The application accordingly is allowed. It is directed that the petitioner shall be released on bail on his furnishing bail bond in the amount of Rs. 25,000/- with two sureties in the like amount to the satisfaction of Chief Judicial Magistrate, Kangra at Dharamshala.

September 3, 2007 (V.K.Gupta), C.J.
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